

CENTRAL INTELLIGENCE AGENCY

WASHINGTON, D.C. 20505

OLC 76-1758

22 JUN 1976

Mr. James M. Frey
Assistant Director for Legislative Reference
Office of Management and Budget
Washington, D. C. 20503

Dear Mr. Frey:


Enclosed is a proposed report to Chairman Ribicoff, Senate Committee on Government Operations, in response to a request for our recommendations on S.2925, the "Government Economy and Spending Reform Act of 1976."

The proposed report has been coordinated with the intelligence components of the Department of Defense. It is my understanding that the Senate Government Operations Committee will be considering S.2925 next week. So that we might have our views before the Committee before it takes action on the bill, it would be appreciated if your office could clear our proposed report as soon as possible.

Advice is requested as to whether there is any objection to the submission of this report from the standpoint of the Administration's program.

Sincerely,

SIGNED


Legislative Counsel

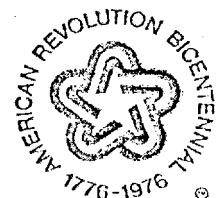
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Enclosure

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Honorable Abraham Ribicoff, Chairman
Committee on Government Operations
United States Senate
Washington, D. C. 20510

Dear Mr. Chairman:

This is in response to your request for my views and recommendations on S. 2925, the "Government Economy and Spending Reform Act of 1976."

This bill would establish, among other things, new authorization schedules for all Government programs and activities, and would require that detailed zero-base reviews of each program or activity be conducted at least every fifth year as a precondition for reauthorization. In connection with the general merits of the bill, we defer to the views of other Executive agencies. In light of my statutory responsibilities to protect intelligence sources and methods from unauthorized disclosure, however, I do have a number of serious reservations concerning the impact of S. 2925 on the national foreign intelligence program.

This bill raises several problems for the intelligence community in terms of protection of and access to sensitive intelligence sources and methods, and could give rise to conflicts with the statutory authority of the Director of Central Intelligence to expend confidential funds under certain circumstances. In its present form, S. 2925 also could be interpreted to require not only the publication of the Government's national foreign intelligence program budget but also publication of detailed five-year reviews of foreign intelligence programs and activities. As such, the bill does not appear to afford sufficient consideration to the special and legitimate needs of the intelligence community for handling classified information and for protecting from disclosure information related to sensitive intelligence sources, methods, and analysis.

The secrecy that is inherently necessary to ensure the success of certain intelligence-gathering programs must be paralleled by secrecy in the funding of these programs. Without secrecy in funding, the secrecy of the programs themselves is seriously jeopardized. This position was shared by my predecessors in this job, and is reflected also in a letter from President Ford to Senator Church of 21 April 1976, in which the President registers his concern that disclosure of foreign intelligence budget information would reveal information useful to this country's foreign adversaries.



The Senate voted 55 to 33 in June 1974 against a measure that would have required the disclosure of the intelligence community budget; the House of Representatives voted 267-147 in October 1975 to defeat a move to force disclosure of the CIA budget. S. Res. 400 and the floor discussion during its consideration are replete with references to the importance of security in foreign intelligence matters. It is against this background and my own statutory responsibilities, that I must register my concern with those provisions of S. 2925 that could force the public disclosure of the Government's foreign intelligence budget, and with the absence of adequate provisions to protect sensitive foreign intelligence information of the sort that might be required to be included in the zero-base reviews submitted to or conducted by the Congress.

Section 102 of this bill, for example, provides that the report on new budget authorities to be submitted to Congress by the Comptroller General by 1 April 1977, shall include amounts of new budget authority provided for each Government program or activity for each of the four fiscal years before 1977. Neither this section nor any other portion of the bill protects against the proliferation and public disclosure of sensitive foreign intelligence information, such as apparently would be included in the reports to be submitted to or conducted by the Congress, regarding new budget authority for and zero-base review of Executive programs and activities. It is particularly important that the zero-base review reports related to foreign intelligence should be considered by and subject to the rules and procedures of those committees in the Senate--the Select Committee on Intelligence and the Armed Services Committee--having primary jurisdictional responsibility to protect against disclosure.

The broad mandate and the subpoena power granted the "Citizen's Bicentennial Commission on the Organization and Operation of Government," established under Title IV of S. 2925, creates additional problems of defining and delineating access to sensitive foreign intelligence information in light of my statutory responsibilities to protect such information from unauthorized disclosure.

A final area of concern relates to Section 602 of the bill, which provides any standing committee in either House of Congress with intra-agency budgetary communications and budgeting requests submitted to the White House by any Executive agency or department. Depending on the specificity

of the information to be furnished, such a provision could unduly proliferate sensitive foreign intelligence information, including the disbursement of confidential funds. Moreover, the broad language of this section could be construed to override the security protection afforded foreign intelligence information by statute and by procedures in both Houses of Congress.

In summary, this Agency defers to other Executive agencies and departments on the general merits of S. 2925 regarding zero-base review. In view of the specific concerns noted above regarding the national foreign intelligence program, however, it is my position that the bill could seriously hamper our foreign intelligence efforts. These concerns are reflected also in S. Res. 400 which, as you are aware, establishes specific procedures to guard against improper disclosure of sensitive foreign intelligence information and directs the Select Committee on Intelligence to study the issue of public disclosure of foreign intelligence budgetary matters.

I am advised that there is no objection to the submission of this report from the standpoint of the Administration's program.

Sincerely,

George Bush
Director

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